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Office of the Secretary
Federal Trade Commission
Room H-135 (Annex P)
600 Pennsylvania Avenue, N.W.
Washington, DC 20580

Dear Sir/Madam:

Re: Comments of AT&T Inc. – Privacy Roundtables Project No. P095416

AT&T Inc., on behalf of itself and its affiliates (“AT&T”), respectfully submits these comments in response to the Commission’s Notice,¹ and applauds the Commission for convening these Roundtables to continue its work in this very important area. Indeed, the Commission’s sustained engagement in this area, bringing together stakeholders from a wide variety of disciplines to consider the privacy issues consumers face in the online marketplace and to address those issues in a creative and comprehensive manner, has resulted in true progress. We believe these Roundtables will serve to further those efforts in a productive and meaningful manner.

As this Commission has recognized, changes in technology and business models have fundamentally expanded the scope and magnitude of online data collected and used for commercial purposes. Even where discrete user information may be anonymous on a stand-alone basis, the growing capability to accumulate and associate disparate data can be used to create a highly detailed, multi-dimensional view of an individual user that goes far beyond anything possible in the offline world. The explosion in both the amount and type of available information, and the potential to use that information in ways not apparent to consumers, calls for the evolution to an equally multi-dimensional approach to privacy protection. Empowering customers with next generation tools to optimize their online experience is a cornerstone of that evolution. Indeed, as more and more of our personal and business lives are conducted electronically and online, consumers have made it quite clear that privacy issues are important to them, and could well be a key determinant of success in the marketplace.²

The innovative approaches to engaging consumers through increased transparency and control tools that have begun to emerge in the marketplace can serve as a model for the next phase in the evolution of privacy practices. AT&T sees that model as shifting the current focus on notice and consent to one that ensures customer engagement in the use and sharing of their

¹ Privacy Roundtables – Comment, Project No. P095416. (rel. September 15, 2009).

² See, e.g., Reuters, *Competitive Crunch and Convergence in Communications Marketplace Fueling Increased Customer Churn, Testing Loyalty* (August 3, 2009), www.reuters.com.

online data. This model would focus on questions such as whether and how customers are engaged in the collection and use of their data; is the practice fully transparent (as opposed to merely disclosed); and does the consumer have the opportunity to control collection and use.

The means for effective customer engagement must be designed as an integral attribute of the online experience, providing demonstrable value to the customer. For example, customers will be better served if there is transparency and choice regarding the collection and use of their information *at the time it is collected and used*. This does not mean that one privacy regime will be immediately supplanted by an entirely new one, as the use of straightforward and meaningful notice-and-consent systems can and will be appropriate in a variety of circumstances. However, more interactive forms of customer engagement must be part of the evolution of privacy practices.

Together with the industry, we are considering a variety of means that can be viewed as stepping stones to accomplishing this shift. This past summer we developed and published an updated, consolidated and streamlined privacy policy that applies (with very limited exceptions) across all of AT&T's business units and services. Customer feedback helped shape this new policy, and contributed to our emphasis on a consumer-centric, plain-language presentation that clearly explains to users what data we collect, how we collect it, and how we use it. Our rollout included video explanations of our policy highlights, as well as a 45-day preview period for customer feedback. Based on that customer feedback, we made additional changes to the policy – including adding definitions and specifically confirming that we do not sell, give or “rent” personal information to marketing companies – before posting the final version.³

But as we outline above, privacy policies, regardless of how clearly they are articulated, are not the best the industry can do in an increasingly interactive, data driven world. A shift to a customer engagement model will require innovation and coordination across the Internet ecosystem. Several of the steps being taken by the Internet advertising industry begin to move in that direction. For instance, providing notice in or around ads themselves, as was incorporated into the IAB/DMA/ANA Self Regulatory Principles, can be seen as a way to make targeted advertising practices more transparent to users by giving them immediate, understandable and useful information about why they received certain types of ads and what options they have in response. The Future of Privacy Forum has garnered industry support and input for the

³ The principles that underlie this updated policy (regardless of the nature of the customer relationship) include: We will protect your privacy and keep your personal information safe; we will not sell your personal information to anyone, for any purpose; we will fully disclose our privacy policy in plain language, and make our policy easily accessible to you; we will notify you of revisions to our privacy policy, in advance; you have choices about how AT&T uses your information for marketing purposes. See <http://www.att.com/gen/privacy-policy?pid=2506>. Indeed, we were gratified at the favorable reception for our privacy effort. For instance, Saul Hansell blogged in the New York Times, on June 11, 2009, that AT&T's policy had “a directness . . . that is often lacking” in other companies’ policies, and that “the policy is certainly explicit in addressing many practices that other companies gloss over.” See <http://bits.blogs.nytimes.com/2009/06/11/a-new-list-of-how-much-att-knows-about-you/>.

development of possible ad label icons, and is testing these labels with consumers. TRUSTe is also looking at ways it can use ad labeling and the TRUSTe seal to increase transparency.

Similarly, there have been improvements in control tools being offered to consumers. The opt-out mechanism provided by the Network Advertising Initiative (“NAI”) continues to improve and NAI membership continues to grow.⁴ Tools are emerging that improve the persistence of the opt-out cookie. In addition, some companies are making the profiles of consumer preferences, used to target ads, available for consumers to review and edit. For instance, in September, AT&T began offering a targeted advertising product that offers advertisers access to customers based on their search activity on Yellowpages.com. As a result, users of Yellowpages.com will see more relevant online advertising on Yellowpages.com and other websites. In order to provide consumers increased transparency and control over this data collection and use, we are providing consumers the ability to view and edit the interest categories that we have associated with them and a simple process for consumers to choose not to be targeted in this way.⁵ We believe these new capabilities not only represent a best practice in this area, but also are a step towards an ecosystem-wide approach based on customer engagement.

AT&T certainly is not alone in pursuing such innovations. Rather, the Commission’s guidance has evoked a response across the ecosystem, ranging from industry groups coalescing around coordinated opt-out mechanisms through NAI to BlueKai’s interest-profile manager. The challenge now – for the industry and the Commission – is to follow through and effect this paradigm shift toward deeper customer engagement in all aspects of the consumer Internet experience. The challenge is also to ensure that any policy framework – whether or not based on self-regulation – is fully inclusive of all entities in the data collection and use value-chain. In order for consumers truly to be in control of their information, *all* entities involved in Internet advertising, including ad networks, search engines and ISPs, will need to adhere to a consistent set of principles. After all, consumers do not want information and control with respect to just a subset of their information or online activities.

⁴ See, e.g., http://www.networkadvertising.org/managing/opt_out.asp.

⁵ In addition, we established a new link regarding this advertising capability separate from the standard privacy policy. This enhancement directly responds to the Commission’s observation that “privacy policies have become long and difficult to understand, and may not be an effective way to communicate information to consumers,” and its admonition to industry to “design innovative ways – outside of the privacy policy – to provide behavioral advertising disclosures and choice options to consumers.” FTC Staff Report, Self-Regulatory Principles for Online Advertising (rel. February 2009), at 35.

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In short, the Commission is well positioned to lead the effort to develop a comprehensive view of the industry, the technologies, and the incentives of the various industry players. AT&T appreciates the Commission's willingness to open a dialogue on these issues, and it looks forward to participating in the Roundtable discussion.

Sincerely,

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Bruce R. Byrd